

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant	:	Goddard, et al.
Appl. No.	:	10/063,537
Filed	:	May 2, 2002
For	:	ANTIBODIES TO A POLYPEPTIDE ENCODED BY A NUCLEIC ACID UNDER-EXPRESSED IN STOMACH AND LUNG TUMOR
Examiner	:	J. Seharaseyon
Group Art Unit	:	1647

**APPLICATION FOR PATENT TERM ADJUSTMENT  
UNDER 37 C.F.R. § 1.705****MAIL STOP ISSUE FEE**

Commissioner for Patents  
P.O. Box 1450  
Arlington, Virginia 22202

Dear Sir:

Applicant respectfully requests reconsideration of the Patent Term Adjustment indicated in the *Notice of Allowance* mailed on November 8, 2006 for the above-identified patent application. This application for Patent term adjustment is being filed with payment of the Issue Fee for this application.

Applicant respectfully submits that the correct patent term adjustment for the patent that issues from this application is 311 days, not 230 days as indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) that was mailed with the Notice of Allowance. The PTO calculation obtained from the PAIR web site is attached as Exhibit 1. According to the PTO's calculation, 81 days of patent term was deducted between May 08, 2005, three months after the mailing date of the final rejection (February 8, 2005), and the filing of the Request for

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Continued Examination (RCE) on July 28, 2005. Applicants note that the response period for this Office Action was restarted on April 27, 2005, because as the result of the PTO's error, the communication was mailed to an incorrect address. Thus, the filing of the RCE on July 28, 2005 was within three months of the mailing date of the final rejection and no patent term should have been deducted during this period (37 CFR 1.704(b)).

§ 1.705(b)(1)

The \$200 fee as set forth in § 1.18(e) for an Application for Patent Term Adjustment was previously submitted on July 28, 2006. Applicants request that this fee be applied to this application. Accordingly no fee is believed due.

§ 1.705(b)(2)

As mentioned above, and in accordance with 37 C.F.R. § 1.705(b)(2)(i), Applicants submit that the correct Patent Term Adjustment for this application is 311 days.

In accordance with 37 C.F.R. § 1.705(b)(2)(ii), Applicants are entitled to the following adjustments (credits):

- *37 C.F.R. § 1.704(b) – 3-Month Applicant Response to Notice or Action:* The PTO mailed a final Office Action on 02-08-05, the period for response to which was re-started on 04-27-2005. Applicants' response (RCE) was filed on 07-28-2005. Thus, the 81 day Applicant Delay should instead be applied as an 81 day credit, resulting in a patent term adjustment of 311 days.

Therefore, Applicants submit that the patent is entitled to an adjustment of **311 days** as specified under 37 C.F.R. § 1.703(f).

In accordance with 37 C.F.R. § 1.705(b)(2)(iii), Applicants state that no patent granted on this application is subject to a terminal disclaimer.

In accordance with 37 C.F.R. § 1.705(b)(2)(iv)(B), Applicants state that there are no other circumstances constituting a failure to engage in reasonable efforts.

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Conclusion

Applicants request reconsideration of the patent term adjustment sent with the Notice of Allowance. For the reasons discussed above, the correct Patent Term Adjustment is 311 days, and not 230 days as determined by the PTO.

Please direct any question regarding this request to the undersigned attorney of record.

The undersigned authorizes the Commissioner to charge any additional fees required by this paper or to credit any overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Jan. 30, 2007

By: 

AnneMarie Kaiser  
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Search results as of: 07-28-2006::11:12:13 E.T.

**Patent Term Adjustment**

Filing or 371(c) Date:	05-02-2002	USPTO Delay (PTO) Delay (days):	372
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	142
Post-Issue Petitions (days):	+0	Total Patent Term Adjustment (days):	230
USPTO Adjustment(days):	+0	Explanation Of Calculations	

**Patent Term Adjustment History**

Date	Contents Description	PTO(Days)	APPL(Days)
06-13-2006	Mail Notice of Allowance		
06-12-2006	Notice of Allowance Data Verification Completed		
06-12-2006	Case Docketed to Examiner in GAU		
03-27-2006	Information Disclosure Statement considered		
12-20-2005	Information Disclosure Statement considered		
07-28-2005	Information Disclosure Statement considered		
03-27-2006	Information Disclosure Statement (IDS) Filed		
03-31-2006	Date Forwarded to Examiner		
03-31-2006	Date Forwarded to Examiner		
03-27-2006	Request for Continued Examination (RCE)		60
03-31-2006	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		⬆
03-27-2006	Request for Extension of Time - Granted		⬆
03-27-2006	Workflow - Request for RCE - Begin		⬆
01-17-2006	Date Forwarded to Examiner		⬆
12-20-2005	Amendment after Final Rejection		⬆
12-20-2005	Information Disclosure Statement (IDS) Filed		⬆
10-26-2005	Mail Final Rejection (PTOL - 326)		⬆
10-25-2005	Final Rejection		
07-28-2005	Reference capture on IDS		
07-28-2005	Information Disclosure Statement (IDS) Filed		
07-28-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		
08-24-2005	Date Forwarded to Examiner		
08-24-2005	Date Forwarded to Examiner		
07-28-2005	Request for Continued Examination (RCE)		81
08-24-2005	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		⬆
07-28-2005	Workflow - Request for RCE - Begin		⬆
04-27-2005	Restart Response of action		⬆
04-27-2005	Mail Miscellaneous Communication to Applicant		⬆
04-26-2005	Miscellaneous Communication to Applicant - No Action Count		⬆
04-26-2005	Correspondence Address Change		⬆
02-08-2005	Mail Final Rejection (PTOL - 326)	23	

02-07-2005	Final Rejection	⌄	
09-16-2004	Rule 47 / 48 Correction of Inventorship Papers Filed	⌄	
09-16-2004	Reference capture on IDS	⌄	
09-16-2004	Information Disclosure Statement (IDS) Filed	⌄	
09-16-2004	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	⌄	
09-27-2004	Date Forwarded to Examiner	⌄	
09-16-2004	Response after Non-Final Action		1
09-16-2004	Workflow incoming amendment IFW	⌄	
06-15-2004	Mail Non-Final Rejection	349	
06-14-2004	Non-Final Rejection	⌄	
04-14-2004	IFW TSS Processing by Tech Center Complete	⌄	
09-09-2002	Preliminary Amendment	⌄	
09-10-2002	Reference capture on IDS	⌄	
09-10-2002	Information Disclosure Statement (IDS) Filed	⌄	
04-14-2004	Correspondence Address Change	⌄	
04-14-2004	Correspondence Address Change	⌄	
04-14-2004	Change in Power of Attorney (May Include Associate POA)	⌄	
04-12-2004	Case Docketed to Examiner in GAU	⌄	
09-15-2003	Receipt of all Acknowledgement Letters	⌄	
08-07-2002	Case Docketed to Examiner in GAU	⌄	
08-01-2002	Receipt of Acknowledgment Letter	⌄	
08-01-2002	Application Dispatched from OIPE	⌄	
07-31-2002	Application Is Now Complete	⌄	
06-20-2002	Receipt of Acknowledgment Letter	⌄	
06-19-2002	Receipt of Acknowledgment Letter	⌄	
05-14-2002	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	⌄	
05-14-2002	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	⌄	
05-14-2002	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	⌄	
05-14-2002	IFW Scan & PACR Auto Security Review	⌄	
05-13-2002	IFW Scan & PACR Auto Security Review	⌄	
05-02-2002	Electronic Filing of Original Application Papers	⌄	
05-02-2002	Initial Exam Team nn	⌄	

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